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UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF NEW YORK

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EDGARDO MALDONADO,

Plaintiff,

-v-

DECISION AND ORDER  
05-CV-0556A

DAVID R. PETERS, RESA AMELIA GONZALES,  
ANGEL LUIS QUIROS, DENESE GREENE,  
STEVE GREENE, DIINO ROCCO, Police Commissioner,  
DISTRICT ATTORNEY'S OFFICE, CHILDREN'S HOSPITAL,  
JEFFREY LAZROE, and ELLIS GOMEZ ,

Defendants.

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**INTRODUCTION**

Plaintiff, Edgardo Maldonado, a *pro se* frequent filer, who has filed numerous cases in this Court<sup>1</sup> and the United States District Court for the District of Columbia, has filed for at least the third time a complaint against the named defendants alleging, *inter alia*, that the defendants falsely accused him of being a drug dealer which caused the loss of his girlfriend's unborn child. The instant complaint alleges that the defendants are part of a

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<sup>1</sup> The following cases have been filed in or transferred to this Court and dismissed either *sua sponte* pursuant to 28 U.S.C. § 1915(e)(2)(B) or on motion to dismiss: *Maldonado v. Peters, et al*, 03-CV-0392A; *Maldonado v. N.Y. Compensation, et al*, 03-CV-0421A, *Maldonado v. Social Security*, 03-CV-0681S; *Maldonado v. Hagen*, 03-CV-0703A; *Maldonado v. Todtenhagen*, 05-CV-0141A; *Maldonado v. State of New York Workers Comp Board*, 05-CV-0211A; and *Maldonado v. Peters et al*, 05-CV-0264A. The following cases have been filed recently and are awaiting initial review by the Court: *Maldonado v. Todtenhagen*, 05-CV-0276A; *Maldonado v. Barnhart*, 05-CV-0471A; ; *Maldonado v. Todtenhagen*, 05-CV-0632A; *Maldonado v. State of New York Worker's Comp Board*, 05-CV-0721A. Most of the recently filed cases are simply re-filings of cases previously dismissed: *Maldonado v. N.Y. Compensation, et al*, 03-CV-0421A, *Maldonado v. State of New York Workers Comp Board*, 05-CV-0211A, and *Maldonado v. State of New York Worker's Comp Board*, 05-CV-0721A; *Maldonado v. Peters, et al*, 03-CV-0392A, *Maldonado v. Peters et al*, 05-CV-0264A, and this matter (05-CV-0556A); *Maldonado v. Social Security*, 03-CV-0681A, and *Maldonado v. Barnhart*, 05-CV-0471A; *Maldonado v. Todtenhagen*, 05-CV-0141A, *Maldonado v. Todtenhagen*, 05-CV-0276A, and *Maldonado v. Todtenhagen*, 05-CV-0632A.

"secret mafia" and have discriminated against him. (Docket No. 1). Plaintiff seeks permission to proceed *in forma pauperis*.

### **DISCUSSION**

Because plaintiff has met the statutory requirements of 28 U.S.C. § 1915(a), plaintiff is granted permission to proceed *in forma pauperis*. Section 1915(e)(2)(B) of 28 U.S.C. provides that the Court shall dismiss a case in which *in forma pauperis* status has been granted if, at any time, the Court determines that the action (i) is frivolous or malicious; (ii) fails to state a claim upon which relief may be granted; or (iii) seeks monetary relief against a defendant who is immune from such relief.

As noted, this is at least the third complaint plaintiff has filed against these defendants alleging that the defendants somehow falsely accused of being a drug dealer, threw him out of his apartment and caused his girlfriend to suffer a miscarriage. *Maldonado v. Peters, et al*, 03-CV-00392A; *Maldonado v. Peters, et al.*, 05-CV-0265A. Each of the first two cases--03-CV-0392A and 05-CV-0264A--were dismissed pursuant to 28 U.S.C. § 1915(e)(2)(B) because they were frivolous. This case is equally frivolous, see *Neitzke v. Williams*, 490 U.S. 319, 324 (1989), and is dismissed for that reason and because it is wholly repetitive of the two earlier cases which were dismissed as frivolous. See *Bailey v. Johnson*, 846 F.2d 1019, 1021 (5th Cir. 1988) ("repetitious litigation of virtually identical causes of action is subject to dismissal under 28 U.S.C. §1915[e] as malicious.") (quoting *Robinson v. Woodfork*, 834 F.2d 1023 (5th Cir. 1987)); see also *Blake v. Bentsen*, 95 CV 2227 (SJ), 1995 WL 428694, at \*2 (E.D.N.Y. July 11, 1995) (directing dismissal of repetitious litigation as abusive and malicious). Plaintiff's repetitive and

identical claims herein would be subject to the defenses of *res judicata* and collateral estoppel. See *Flaherty v. Lang*, 199 F.3d 607, 612 (2d Cir. 1999) (citing *Leather v. Eyck*, 180 F.3d 420, 424 (2d Cir. 1999)).

Plaintiff is advised and put on notice that the filing of repetitive, vexatious, baseless or frivolous litigation may subject him to sanctions pursuant to both Fed.R.Civ.P. 11 and the federal courts' inherent power and obligation "to protect their jurisdiction from conduct which impairs their ability to carry out Article III functions." *In re McDonald*, 489 U.S. 180, 184 n. 8 (1989) (quoting *In re Martin-Trigona*, 737 F.2d 1254, 1261 (2d Cir.), *cert. denied*, 474 U.S. 1061 (1986)). The fact that plaintiff is *pro se* does not protect him from the imposition of sanctions when necessary and appropriate to deter baseless filings, see *DePonceau v. Bush*, 04-CV-6240CJS(Fe), 2004 WL 1574621, at \*3 (W.D.N.Y. June 4, 2004) (citations omitted). Future filings by plaintiff which do not comply with Fed.R.Civ.P. 11, or are baseless, frivolous, repetitious, oppressive or vexatious may lead to the imposition of sanctions against him which may include, but are not limited to a monetary fine, a requirement that plaintiff obtain permission before filing any new actions or an injunction prohibiting any future filings.

### **CONCLUSION**

Plaintiff has met the statutory requirements of 28 U.S.C. § 1915(a). Accordingly, plaintiff's request to proceed *in forma pauperis* is granted and, for the reasons discussed above, the complaint is dismissed with prejudice pursuant to 28 U.S.C. §§ 1915(e)(2)(B)(i).

The Court hereby certifies, pursuant to 28 U.S.C. § 1915(a)(3), that any appeal from this Order would not be taken in good faith, and leave to appeal to the Court of Appeals

as a poor person is denied. *Coppedge v. United States*, 369 U.S. 438 (1962). Further requests to proceed on appeal as a poor person should be directed, on motion, to the United States Court of Appeals for the Second Circuit, in accordance with Rule 24 of the Federal Rules of Appellate Procedure.

**ORDER**

IT HEREBY IS ORDERED, that plaintiff's request to proceed *in forma pauperis* is granted;

FURTHER, that the complaint is dismissed with prejudice; and

FURTHER, that leave to appeal to the Court of Appeals as a poor person is denied.

SO ORDERED.

Dated: DEC. 5, 2005  
Rochester, New York

Charles J. Siragusa  
CHARLES J. SIRAGUSA  
United States District Judge